

ORDINANCE NO. 21- 20
Series of 2020

**AN ORDINANCE AMENDING CHAPTER 7 OF THE DILLON
MUNICIPAL CODE TO ADD A NEW ARTICLE X REGARDING
DISPOSABLE BAGS**

WHEREAS, the Town of Dillon is a home rule municipality existing pursuant to the Colorado Constitution and the Dillon Home Rule Charter; and

WHEREAS, the use of disposable bags has significant impacts on the environment on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption, and solid waste generation; and

WHEREAS, despite recycling and voluntary solutions to control pollution from disposable bags, many disposable bags ultimately are disposed of in landfills, litter the environment, block storm drains, and endanger wildlife; and

WHEREAS, reducing the use of disposable bags has a positive impact on the local environment; and

WHEREAS, studies and the experience of other Colorado municipalities document that banning the use of plastic bags and authorizing markets to place a fee on paper bags will dramatically reduce the use of both types of bags; and

WHEREAS, the Town Council wishes to protect the local natural environment by banning the use of disposable single use plastic bags and authorizing markets to place a fee on paper bags.

NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:

Section 1. Chapter 7 of the Dillon Municipal Code is hereby amended by the addition of a new Article X, to read as follows:

ARTICLE X
DISPOSABLE BAGS

Sec. 7-10-10.- Definitions.

Sec. 7-10-20.- Prohibitions on and after the effective date.

Sec. 7-10-30.- Discretionary paper bag fee.

Sec. 7-10-40.- Voluntary opt in to disposable plastic bag ban.

Sec. 7-10-50.- Required signage for markets.

Sec. 7-10-60.- Exemptions.

Sec. 7-10-70.- Violations.

Sec. 7-10-10. - Definitions.

For purposes of this Article, the following terms shall have the following meanings:

Disposable paper bag means a bag made predominately of paper that is provided to a customer by a grocer at the point of sale for the purpose of transporting goods.

Disposable plastic bag means any bag that is less than two and one-quarter (2.25) mil thick and is made predominately of plastic derived from petroleum or from bio-based sources, provided to a customer at the point of sale for the purpose of transporting goods. Disposable plastic bag does not mean:

- A. Bags used by consumers inside stores to:
 - 1. Package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - 2. Contain or wrap frozen foods, meat, or fish;
 - 3. Contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - 4. Contain unwrapped prepared foods or bakery goods; and
 - 5. A non-handled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recyclable paper bag or reusable bag.
- B. Bags provided by pharmacists to contain prescription drugs;
- C. Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.

Market means a retail establishment or business located within Town of Dillon corporate limits in a permanent building, operating year round, that is a self-service market and that sells items including, but not limited to, food items, meats, produce, household supplies, personal care items, dairy products, or other perishable items. Market does not mean:

- A. Temporary vending establishment for fruits, vegetables, packaged meats and dairy.
- B. Vendors at farmer's markets or other temporary events.
- C. A retail establishment selling only incidental food items or small snack items.
- D. A location where the facility is less than ten thousand (10,000) square feet.

Restaurant means a business that prepares and serves food and drinks to customers. Food and drinks are either served and eaten on the premises, or offered for take-out or delivery.

Reusable bag means a bag that is:

- A. Designed and manufactured to withstand repeated uses over a period of time;
- B. Is made from a material that can be cleaned and disinfected regularly;
- C. That is at least two and one-quarter (2.25) mil thick if made from plastic;
- D. Has a minimum lifetime of at least seventy five (75) uses; and
- E. Has the capability of carrying a minimum of eighteen (18) pounds.

Expanded polystyrene foam container means a container made of expanded polystyrene foam, commonly known as Styrofoam, such as is used in cups and carryout containers.

Sec. 7-10-20. - Prohibitions on and after the effective date.

- A. No market shall provide a disposable plastic bag to a customer at the point of sale.
- B. Nothing in this section shall preclude persons or markets from making reusable bags available for sale or for no cost to customers.
- C. No restaurant shall provide an expanded polystyrene foam container to a customer at the point of sale or at any other point during the customer's visit to the restaurant.

Sec. 7-10-30. - Discretionary paper bag fee.

- A. Markets may implement a disposable paper bag fee for each disposable paper bag provided to a customer by applying with the Town Manager's office and consenting to abide by the terms of this Article.
- B. Markets shall record the number of disposable paper bags provided and the total amount of the fee charged on the customer transaction receipt.
- C. A market shall not exempt any customer from any part of the disposable paper bag fee for any reason except as stated in Section 7-10-60.
- D. Markets may retain one hundred percent (100%) of the disposable paper bag fee collected from customers, which sum shall not be classified as revenue for the purposes of calculating sales tax.

Sec. 7-10-40. - Voluntary opt in to disposable plastic bag ban.

Any store or business not meeting the definition of market as set forth in this Article may voluntarily apply the disposable plastic bag ban to its business by applying with the Town Manager's office and consenting to abide by the terms of this Article.

Sec. 7-10-50. - Required signage for markets.

Every market that has implemented a disposable paper bag fee shall display a sign in a location outside or inside of the business, viewable by customers, alerting customers to the Town of Dillon imposed ban and fee.

Sec. 7-10-60. - Exemptions.

A market that has implemented a disposable paper bag fee may provide a disposable paper bag to a customer at no charge if the customer provides evidence that the customer is a participant in a Colorado Food Assistance Program.

Sec. 7-10-70. - Violations.

Violation of any of the requirements of this Article shall subject a market to the penalties set forth in this Section.

A. If it is determined that a violation has occurred, the Town shall issue a warning notice to the market for the initial violation.

B. If it is determined that an additional violation of this Article has occurred within one year after a warning notice has been issued for an initial violation, the Town shall issue a notice of infraction and shall impose a penalty against the retail establishment.

C. The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

1. Fifty dollars (\$50.00) for the first offense;
2. One hundred dollars (\$100.00) for the second offense;
3. For the third and all subsequent offenses, the violator shall be subject to the penalty set forth in Section 1-4-20 for noncriminal violations after a mandatory court appearance; except that, no more than one (1) penalty shall be imposed upon a market within a seven (7) calendar day period.

D. A market shall have fifteen (15) calendar days after the date that a notice of infraction is issued to pay the penalty.

E. The penalty shall double after fifteen (15) calendars days if the market does not pay the penalty, or fails to respond to a notice of infraction by either denying or objecting in writing to the infraction or penalty.

Section 2. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 3. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect August 1, 2021.

INTRODUCED, READ AND ORDERED PUBLISHED BY TITLE ONLY THIS 3rd DAY OF NOVEMBER, 2020.

PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED BY TITLE ONLY THIS 17th DAY OF NOVEMBER, 2020.

DocuSigned by:



TOWN OF DILLON,
a Colorado municipal corporation

DocuSigned by:

By: Carolyn Skowyr
Carolyn Skowyr, Mayor

ATTEST:

DocuSigned by:

Adrienne Stuckey

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Adrienne Stuckey, Town Clerk